

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JOHNNY ALVAREZ, ON BEHALF OF
HIMSELF AND ALL OTHERS
SIMILARLY SITUATED;
Plaintiff

SA-24-CV-00400-XR

-vs-

MG BUILDING MATERIALS, LTD,
Defendant

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ORDER

On this date, the Court considered the status of this case. The Court concludes that “good cause” exists for setting aside the entry of default under FED. R. CIV. P. 55(c). Defendant filed an answer demonstrating meritorious defenses on September 5, 2024. ECF No. 15. Plaintiff would not be prejudiced as a result of the Court setting aside the entry of default. There is “no prejudice” where, as here, “the setting aside of the default has done no harm to plaintiff except to require it to prove its case.” *Lacy v. Sitel Corp.*, 227 F.3d 290, 293 (5th Cir. 2000) (quoting *Gen. Tel. Corp. v. Gen. Tel. Answering Serv.*, 277 F.2d 919, 921 (5th Cir. 1960)).

Accordingly, the default entered herein on June 24, 2024 (ECF No. 10) is **SET ASIDE** and the Text Order dated August 27, 2024 referring the Motion for Default Judgment to Magistrate Judge Bemporad is **WITHDRAWN**. Plaintiff’s Motion for Default Judgment (ECF No. 12) is **MOOT** in light of Defendant’s answer.

It is so **ORDERED**.

SIGNED this 11th day of September, 2024.

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a horizontal stroke.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE